

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

Crl.Rev.Pet.No. 3999 of 2007()

CRA.834/2003 of ADDL. DISTRICT JUDGE ADHOC III, N. PARAVU
CRMP.547/2003 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVUR
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REVN. PETITIONER: APPELLANT/PETITIONER:

NALINI, W/O. T.N.GIRI,
AGED 47 YEARS, THATTIL HOUSE, NATTIKA P.O.,
CHAVAKKAD TALUK, THRISSUR DISTRICT, REPRESENTED BY
HER POWER OF ATTORNEY HOLDER, MR.T.N.GIRI
(HER HUSBAND).

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENTS: RESPONDENTS/CLAIM PETITIONERS & COMPLAINANT:

1. BIJU K.V., S/O. VARGHESE,
KANJIRASSERY VEEDU, AMPAZHAKKAD, VADAMA VADAKKUM-
BHAGAM, MUKUNDAPURAM TALUK, THRISSUR DISTRICT.
2. K.P. GEORGE @ VARGHESE (DIED),
KANJIRATHINKAL HOUSE, KIZHAKKUMBHAGAM, KANJOOR,
ALUVA, ERNAKULAM.
3. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. C.M.NAZAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 21/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

V. RAMKUMAR, J.
* * * * *
Crl.R.P. No. 3999 of 2007
* * * * *
Dated: 21-11-2007

ORDER

Revision Petitioner challenges the orders passed concurrently by the courts below dismissing his application filed as Crl. M.P. 547 of 2003 seeking final custody of a stage carriage bus bearing Reg. No. KL8/B 8703 of which the revision petitioner claims to be the registered owner. the above claim was made in S.T. 807 of 2002 before the J.f.C.M., North Paravur.

The above S.T. case arose out of a motor accident (involving the said bus) which took place on 10-7-2000. The vehicle was seized by the police in that case and produced before the Magistrate. Thereafter the first respondent herein sought interim custody of the vehicle contending that he was the purchaser of the bus under a sale agreement. The petitioner claims to have filed a private complaint before the said court alleging that the sale agreement produced by the first respondent is a forged document. The said case was taken on file as C.C. No. 896 of 2002 on the file of the J.f.C.M., North paravur. The trial of the said case is not over. Consequent on a petition in C.C. No. 896 of 2002 the vehicle was produced in court by the first respondent and the same is lying there. The petitioner had filed Crl.M.C. 505 of 2007 before this Court challenging the dismissal of his application for interim custody

under Sec. 451 Cr.P.C., in the forgery case. While disposing of the said Crl. M.C., this Court in the common order dated 13-6-2007 observed as follows:

“I note that the trial of the case is at the fag end. the vehicle has been in the possession of the first accused all along. In these circumstances, I am satisfied that it is not necessary to disturb the order passed by the learned Magistrate and it will only be appropriate to direct the first accused to keep possession of the vehicle on the terms fixed by the court below. Appropriate directions for early disposal of the case can be issued. Along with the final disposal of the case, the learned Magistrate must also pass appropriate orders under S. 452 Cr.P.C. regarding release of the vehicle”.

Admittedly, C.;C. 896 of 2002 instituted at the instance of the revision petitioner alleging that the agreement produced by the first respondent herein is a forged document is pending trial. When as per the directions in Crl.M.C. 505 of 2007 issued by this Court, until the final disposal of C.C. No. 896 of 2002, the vehicle in question should in the custody of the first respondent herein, the revision petitioner was not justified in seeking final custody of the vehicle, merely because S.T. 807 of 2002 ended in conviction on the accused pleading guilty. In the event of the Magistrate finally upholding the contention of the revision petitioner that the sale agreement executed by the first petitioner is a forged document, then only the question of final custody regarding the vehicle can come up for consideration before the magistrate. At that stage only can the revision petitioner seek final custody. If on the contrary, the trial court

does not accept the revision petitioner's case that the sale agreement produced by the first respondent is a forged document, than the revision petitioner may not be able to get custody of the vehicle. In any view of the matter, the question of final custody of the vehicle will arise for consideration only on disposal of C.C. 896 of 2002.

This revision is disposed of as above.

**V. RAMKUMAR,
(JUDGE)**

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